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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/875,771	06/06/2001	Robert Ellis	50P3883	7358
24337	7590	04/20/2005	EXAMINER	
MILLER PATENT SERVICES 2500 DOCKERY LANE RALEIGH, NC 27606			LAYE, JADE O	
		ART UNIT		PAPER NUMBER
				2614

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/875,771	Applicant(s) ELLIS ET AL.
	Examiner	Art Unit
	Jade O. Laye	2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 06 June 2001.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-22 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-22 is/are rejected.

7) Claim(s) 3,4,6,8,10-12,15,16,18 and 20 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 06 June 2001 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to because they are too small. It is difficult to read the component labels in Figures 1-4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities:

- a. There appears to be typo on page 6 paragraph [0019]. The term "location 2" should be "location2" as described in the remainder of applicant's specification.

Appropriate correction is required.

Claim Objections

3. Claims 3, 4, 6, 8, 10-12, 15, 16, 18, and 20 are objected to because of the following informalities:

- a. The term "...the bi-directional transmission media..." in claims 3, 4, 10, and 11 lacks antecedent basis. The term should refer to "...the bi-directional *broadband* transmission media...".
- b. The term "...the second mode of operation..." in claims 4 and 22 lacks antecedent basis.
- c. The term "...second interactive..." in claims 6 and 12 lacks antecedent basis.
- d. The term "...the interactive audio-visual appliance..." in claim 8 lacks antecedent basis. It should refer to "...the *first* interactive audio-visual appliance...".
- e. Claims 15, 16, and 18 appear to contain a spacing error after the phrase "...claim 14,...".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 2614

4. Claims 1, 2, 4-9, 11-16, and 18-22 are rejected under 35 U.S.C. 102(b) as being anticipated by David et al. (US Pat. No. 5,441,047).

As to claim 1, David et al disclose a patient health monitoring system, in which the patient, located at a remote location, is monitored by a health care worker at a central station. The system allows the health care worker and patient to be in simultaneous interactive audio and visual communication with each other. Various medical monitoring and sensing equipment are present at the patient's home, thereby allowing transmission of various physiological data (i.e., blood pressure, EKG, blood sugar levels, etc.) relating to said patient. (Abstract; Col. 1, Ln. 14-25; Col. 5, Ln. 8-67 thru Col. 6, Ln. 1-14 & 43-54; Col. 8, Ln. 58-67 thru Col. 9, Ln. 1-11 & 25-67). Accordingly, David et al anticipate each and every limitation of claim 1.

Claim 20 is encompassed within the limitations of claim 1. Therefore, it is analyzed and rejected as previously discussed.

Claim 14 also corresponds to the system claim 1. However, it adds an additional limitation directed to a plurality of ports, which are used to communicate the physiological data to the health care provider. As to this limitation, David et al further teach the use of sensors used to measure the patient's physiological data. (Col. 10, Ln. 35-51). Accordingly, David et al anticipate each and every limitation of claim 14.

As to claim 2, David further teaches the system contains a unit (Item #46, Fig. 6) used to prepare the signal for transmission through the communication network. (Col. 15, Ln. 14-18). This is an example of a set top box. Moreover, the system's transmission can be provided via the use of a satellite communications network. (Col. 5, Ln. 38-42). Following this teaching, it is inherent that a satellite communication system contain some form of receiver (i.e., set top box) in

order to demodulate (demultiplex, etc.) the incoming signal. Accordingly, David et al anticipate each and every limitation of claim 2.

Claims 9 and 16 correspond to the system claim 2. Therefore, each is analyzed and rejected as previously discussed.

As to claim 4, David et al further disclose a health care provider can responsively communicate with the patient after receiving his or her physiological data. (Abstract; Col. 1, Ln. 14-25; Col. 5, Ln. 8-67 thru Col. 6, Ln. 1-14 & 43-54; Col. 8, Ln. 58-67 thru Col. 9, Ln. 1-11 & 25-67). Accordingly, David et al anticipate each and every limitation of claim 4.

Claims 11, 19, and 22 correspond to the system claim 4. Therefore, each is analyzed and rejected as previously discussed.

As to claim 5, David et al further disclose that the patient can activate the system by pushing a button (i.e., mode selection element) located on a remote control. (Col. 9, Ln. 12-24). Accordingly, David et al anticipate each and every limitation of claim 5.

As to claims 6 and 7, David et al further disclose that the health care provider's remote system is coupled to various databases, which store the patient's physiological data. Moreover, the patient's transmitted data can be compared (i.e., merged) with the patient's past records. (Col. 11, Ln. 55-58; Col. 13, Ln. 9-62). Accordingly, David et al anticipate each and every limitation of claim 6.

Claims 12 and 13 correspond to the system claims 6 and 7, respectively. Thus, each is analyzed and rejected as previously discussed.

As to claim 8, David et al disclose a patient health monitoring system, in which the patient, located at a remote location, is monitored by a health care worker at a central station.

The system allows the health care worker and patient to be in simultaneous interactive audio and visual communication with each other. Various medical monitoring and sensing equipment are present at the patient's home, thereby allowing transmission of various physiological data (i.e., blood pressure, EKG, blood sugar levels, etc.) relating to said patient. (Abstract; Col. 1, Ln. 14-25; Col. 5, Ln. 8-67 thru Col. 6, Ln. 1-14 & 43-54; Col. 8, Ln. 58-67 thru Col. 9, Ln. 1-11 & 25-67). The user is also permitted to activate the interactive feature by pressing a button on a remote control (i.e. allows user to select mode of operation). Lastly, the system of David et al contains a "content server", which has access to a content database. (Figs. 1, 2, & 4; Col. 11, Ln. 55-58; Col. 13, Ln. 9-62). (Note: the examiner broadly interprets content server to refer to any computer connected to various users. Accordingly, the "central station" of Fig. 1 is such a computer because it is connected to various users as disclosed in Fig. 2). Therefore, David et al anticipate each and every limitation of claim 8.

As to claim 15, David et al further teach the use of a control panel used to receive inputs by the user. (Fig. 10). Accordingly, David et al anticipate each and every limitation of claim 15.

As to claim 18, David et al further teach the system can be used in conjunction with a cable distribution system. (Col. 8, Ln. 39-47). Therefore, it is inherent this system be capable of also providing broadcast programming (i.e., audiovisual content) which is received from a head end (i.e., content server). Accordingly, David et al anticipate each and every limitation of claim 18.

Claim 21 corresponds to the apparatus claim 18. Therefore, it is analyzed and rejected as previously discussed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 3, 10, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over David et al in view of Flach et al. (US Pat. No. 5,944,659).

Claim 3 recites the system of claim 1, wherein the first interactive audio-visual appliance is a set-top box. As discussed above, David et al anticipate all limitations of claim 1, but fail to specifically recite the use of the Internet. However, within the same field of endeavor, Flach et al disclose a similar system in which the patient and healthcare provider interactively communicate via the Internet. (Col. 7, Ln. 29-43). Accordingly, it would have been obvious to one of ordinary skill in this art at the time of applicant's invention to combine the systems of David and Flach in order to provide a remote monitoring system which utilizes the internet as a communications medium, thereby providing a more expansive and efficient method of communication.

Claims 10 and 17 correspond to the system claim 3. Therefore, each is analyzed and rejected as previously discussed.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Scher (US Pat. No. 3,588,336) discloses a hospital communication system.
- b. Corbin et al (US Pat. No. 3,613,669) disclose a remote monitoring system.
- c. Buxton et al (US Pat. No. 3,646,606) disclose a physiological monitoring system.
- d. Fletcher et al (US Pat. No. 3,910,257) disclose a medical monitoring system.
- e. McGahan et al (US Pat. No. 4,037,250) disclose a video surveillance system.
- f. Healy et al (US Pat. No. 4,051,522) disclose a patient monitoring system.
- g. McGrath et al (US Pat. No. 4,216,462) disclose a patient monitoring system.

- h. Roscoe (US Pat. No. 4,249,206) discloses a video surveillance system.
- i. Holte (US Pat. No. 4,325,385) discloses a patient monitoring system.
- j. Sciarra et al (US Pat. No. 4,494,553) discloses a patient monitoring system.
- k. Roi du Maroc, II. (US Pat. No. 4,805,631) disclose a patient monitoring system.
- l. Eggers et al (US Pat. No. 4,920,432) disclose a multiple user terminal system.
- m. Welch et al (US Pat. No. 5,319,363) disclose a portable monitoring device.
- n. Crawford, Jr. (US Pat. No. 5,331,549) disclose a medical monitoring system.
- o. Lombardo et al (US Pat. No. 5,786,746) disclose a child care monitoring system.
- p. Kuno (US Pat. No. 5,802,494) discloses a patient monitoring system.
- q. Sakaguchi et al (US Pat. No. 5,807,246) disclose a patient physiology display system.
- r. Fiego et al (US Pat. No. 5,903,211) disclose a medical treatment device having a display.
- s. Schlager et al (US Pat. No. 5,963,130) disclose a self-locating remote monitoring system.
- t. Flach et al (US Pat. No. 6,213,942) disclose a patient monitoring system.
- u. Boone et al (US Pat. Pub. No. 2002/0196141) disclose a patient monitoring system.
- v. Mault et al (US Pat. Pub. No. 2003/0126593) disclose a patient monitoring system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jade O. Laye whose telephone number is (571) 272-7303. The examiner can normally be reached on Mon. 7:30am-4, Tues. 7:30-2, W-Fri. 7:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner's Initials JL
April 8, 2005.



NGOC-YEN VU
PRIMARY EXAMINER